

Rogers et al. v. U.S. Dept. of Health & Human Servs. et al.
Civil Action No. 6:19-cv-01567-JD

Exhibit C

**to the State Defendants' Reply in Support of the Motion to Stay
Discovery and Hold Pending Discovery Motions in Abeyance**

Excerpts from the Deposition of Eden Rogers

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF SOUTH CAROLINA
3 GREENVILLE DIVISION
4 Civil Action No. 6:19-cv-01567-JD
5 Eden Rogers, et al.,
6 Plaintiffs,
7 vs.
8 United States Department of Health and Human
9 Services, et al.,
10 Defendant.

11 VIRTUAL
12 DEPOSITION OF: EDEN ROGERS
13
14 DATE: May 21, 2021
15 TIME: 1:01 p.m.
16 LOCATION: 222 Rutherford Street
17 Greenville, South Carolina 29609
18 TAKEN BY: Counsel for Governor Henry McMaster
19 REPORTED BY: MICHELLE BAKER LEE,
20 Certified Court Reporter
21
22
23
24
25

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1 Q So the text of the tweet and the image in
2 the tweet are, I think, either very close or maybe
3 identical. This one was tweeted out by SC Equality --

4 A Oh.

5 Q -- (indiscernible audio) the ACLU of South
6 Carolina. I think that's -- that's the difference.
7 But I think you're right that they're very similar.

8 A Okay.

9 Q Had you ever seen this tweet?

10 A No.

11 Q Are you familiar with SC Equality?

12 A I've heard of it.

13 Q Okay. Have you ever spoken with anyone from
14 there?

15 A To be fair, probably, yes, since all of
16 this, but before the Complaint was filed, no.

17 Q Okay. You can set those exhibits aside.

18 In early 2019 it was national news that
19 federal HHS had granted a waiver specifically to
20 Governor McMaster, to South Carolina related to
21 Miracle Hill. It was in the Washington Post, it
22 was -- it was all over the news. Were you aware of
23 that at that time?

24 A No.

25 Q Okay. At the time you applied to -- you

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1 submitted an application to Miracle Hill, were you
2 aware that they worked only at that time with
3 Protestant Christian foster parents?

4 A No, I wasn't.

5 Q Did you know at that time -- and when I say
6 "at that time," to be a little bit more precise we're
7 talking about like April and May approximately of
8 2019, around the time you applied. At that time did
9 you know that the South Carolina Department of Social
10 Services, SCDSS, would work with any qualified foster
11 parent or prospective foster parent of any religion or
12 no religion and any marital status?

13 A I actually was aware of that. However, I
14 have had lots of contact with a number of people that
15 I do not know personally that worked for DSS through
16 the school that I taught at. We would go through
17 regular evaluations. And I had been -- I guess I had
18 heard a number of times that going through them was
19 lengthy and not easy, and the agencies in the area had
20 the ability to shorten the process significantly and
21 do a very thorough job with a lot of support. So I
22 was aware that that was possible, but how realistic it
23 was as far as becoming a foster parent anytime soon, I
24 was not confident in that.

25 Q Okay. And when -- just to make sure I am

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1 hearing what you're saying and understanding, right,
2 when you say through SCDSS, I think you said the
3 process was lengthy. Are you talking about the
4 process of becoming licensed as a foster parent, the
5 application and licensure process?

6 A Yes.

7 Q And you also said that your understanding
8 was that other agencies -- you're talking about
9 private foster agencies?

10 A Private organizations, yeah.

11 Q Okay. And you said agencies plural, that
12 there's more than one in your area and in the state
13 generally but specifically in your area?

14 A Yeah, I'm assuming so. I only know of
15 Miracle Hill because they're the only one that
16 advertises so -- but I'm assuming at this point that
17 there's more than one.

18 Q And maybe you just answered the last -- so
19 how did you decide -- you'd explained why you didn't
20 at the time want to apply directly with DSS. How did
21 you decide on Miracle Hill instead of one of the --
22 one of the other private agencies in your area?

23 A They're the only one that I knew about.

24 Every day on the way to work I passed billboards and,
25 you know, little signs that you stick in the grass

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1 the third page. Down at the bottom it says Rogers
2 underscore Welch underscore 00051. It's the e-mail
3 we've been looking at. It was sent on May 1st at
4 2:22 p.m. Above it there's that black redacted box.
5 If you flip to the previous page you'll see that that
6 e-mail was sent from Brandy Welch to Currey Cook who
7 you mentioned earlier, one of the lawyers at Lambda
8 Legal, to you, to L. Cooper. Is that Leslie Cooper at
9 the ACLU, one of your lawyers?

10 A That sounds familiar.

11 Q And then Susan Dunn at the ACLU who, of
12 course, is also one of your lawyers who's with you
13 right there.

14 When you look at that e-mail that Brandy
15 sent, she sent it on May 1, 2019 at 3:58 p.m. That's
16 about an hour and a half after you got it. Am I -- am
17 I reading those dates and times right?

18 A Yes.

19 Q I thought you said that you at least took
20 overnight to talk about it and think about it and then
21 you talked to Ms. Bovee-Kemper and then at some point
22 thereafter you got introduced to the folks at Lambda
23 and the ACLU. But here it looks like you sent it one
24 and a half hours after you got the e-mail from Miracle
25 Hill; is that right?

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1 A Well, I do know that we were definitely up
2 half the night talking about it and struggling over
3 this. But, yes, it does -- does look like that's the
4 case.

5 Q So how did you know who to send it to? How
6 did you have these people's e-mail addresses that
7 quick after you got the e-mail from Miracle Hill?

8 A I suppose that we had already gotten it from
9 Cindy.

10 Q Had you ever talked to any of these people
11 before you applied to Miracle Hill?

12 A I don't know.

13 Q You don't remember?

14 A I don't remember.

15 Q In the e-mail that Sharon Betts sent to
16 you-all that afternoon, I think we counted there were
17 nine bullet points of other private or public agencies
18 that you could have reached out to to apply to be a
19 foster parent. Did you ever reach out to any of
20 those?

21 A No.

22 Q But you wanted to be a foster parent, right?

23 A Still do, yes.

24 Q Well, why haven't you reached out to any of
25 them to become one?

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1 A We had no reason to believe that the same
2 thing wasn't going to happen with all of these.

3 Q Now, earlier you told me that you knew that
4 SCDSS would have worked with you. So why didn't you
5 reach out to SCDSS?

6 A Because they are not the same sort of
7 program and they don't have the same thing to offer as
8 far as support and, like, a reasonable amount of time
9 to get all of this going. They're -- basically it's
10 not the same service.

11 Q How long do you think it takes for a person
12 who applies to DSS before they get licensed as a
13 foster parent?

14 A It can take a year or more.

15 Q How long do you think it takes for a person
16 who applies to Miracle Hill to get licensed as a
17 foster parent?

18 A From what I've heard, months.

19 Q Could you be more specific?

20 A I mean, I don't have more specific answers
21 than that other than from what I've heard from other
22 people over the course of time in casual conversation
23 or passing, months.

24 Q Like a couple of months?

25 A I don't know.

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1 open to and welcoming of people of any and all faiths
2 or marital status or orientation; did you look?

3 A I don't remember. It was a long night.

4 Q So you don't remember if either that night
5 or ever after that you've looked to see if there's
6 another agency that would welcome you?

7 A I don't remember.

8 Q You've alleged in your lawsuit that the
9 Governor and the other Defendants have violated the
10 Constitution by funding, by paying Miracle Hill for
11 recruiting and screening only evangelical Christian
12 foster parents, right?

13 A Right.

14 Q And the relief you've asked for in your
15 lawsuit is for the court to order Governor McMaster
16 and the other Defendants to stop funding what you
17 referred to as Miracle Hill's discriminatory
18 recruiting and screening practices; is that right?

19 A Right.

20 Q So if Miracle Hill wasn't being reimbursed
21 by the state or federal government for its recruiting
22 and screening practices then there's no constitutional
23 violation, right?

24 A Can you repeat that, please?

25 Q So if Miracle Hill isn't getting reimbursed

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1 for its discriminatory recruiting and screening
2 practices then there's not a constitutional problem or
3 a Constitution violation anymore, is there?

4 A Right.

5 Q Okay.

6 MR. COLEMAN: Well, why don't we take a
7 break there. Let's see. It's 2:52 eastern.
8 And, Susan, I'll tell you, I'm probably -- well,
9 I don't want to over-promise. I'm definitely
10 past the halfway point. I'm probably on sort of
11 the downward slope toward the -- toward the
12 runway. I'm happy to take however long or --
13 well, I'll either take a five-minute break, a
14 ten-minute break, whatever -- whatever would suit
15 everyone. But just in terms of timing, I bet
16 I'll probably take maybe another 45 minutes or so
17 and I think I'll probably be wrapped up. Do you
18 think five minutes or do you want to take ten --
19 maybe ten minutes is better just to give everyone
20 time to take care of --

21 MS. DUNN: Yeah, why don't we say ten.

22 MR. COLEMAN: Okay. We'll be back around
23 3 -- about 3:02?

24 MS. DUNN: Okay.

25 MR. COLEMAN: Okay. Sounds good.